
Honoring the Right To Die in Medical Emergencies

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On July 1, 1995, Hawaii's new DNR or comfort care only law will go into effect. Under specific circumstances, the new law allows and directs ambulance/emergency medical services personnel, first responder personnel, and others to honor the wishes of terminally ill patients who do not want to be resuscitated during a medical emergency. The law also protects emergency personnel from liability if they have a good-faith belief that resuscitation is necessary.

The Current Situation

Ambulance or other emergency personnel usually must use all available resuscitative measures if an emergency situation arises—even with acutely terminal patients—and even if it is against patients' wishes as expressed in their valid living wills.

This is often a no-win situation for everyone involved. For even the end-stage terminally ill person, the specific desire not to be resuscitated is ignored, and often their agony is prolonged. Family members must endure a sense of betrayal for not honoring the last wishes of a loved one. And the emergency ambulance personnel are often left with a feeling of helplessness because they must disregard a patient's wishes in order to perform their legal duty.

Effective July 1, 1995, this scenario will change, thanks to the enactment of Act 173, approved on June 21, 1994 by Governor Waihee, and now codified as Section 321-229.5 of the *Hawaii Revised Statutes* (HRS).

What the New Law Provides

HRS Section 321-229.5 allows emergency medical services personnel,¹ first responder personnel,² and health care providers³ to provide *comfort care* for terminally ill persons. The patients must be certified as terminally ill by their physicians and must have a written comfort-care-only document⁴ and an identifying bracelet or necklace.⁵

Terminally ill persons can certify in the written document that they do not want chest compressions, rescue breathing, electric shock, or medication, or all of these, to restart the heart if their breathing or heart stops.⁶

Comfort care includes administering oxygen, airway suctioning, splinting fractures, pain medicine, and other measures required for comfort.⁶

The Documentation/Identification Required and Other Safeguards

In order for emergency personnel to honor a terminally ill person's wishes, the new law requires a written comfort care only document, signed by the patient, the patient's physician, and one other adult who personally knows the patient,⁷ certifying 1) the person is a terminally ill patient of that physician,⁸ and 2) the person directs emergency medical services personnel, first responder personnel, and health care providers not to administer chest compressions, rescue breathing, electric shock, or medication, or all of these, to restart the heart if the person's breathing or heart stops, and directs that person receive care for comfort only.⁹

The original document, containing both certifications and all three signatures, is to be kept on file with the patient's physician.¹⁰ The patient receives two copies, one of which will be used to order the identifying comfort care only necklace or bracelet, prescribed by a physician.

The comfort care only document can be revoked at any time by the patient, either verbally or by removing the identifying bracelet or necklace.¹¹

In addition, the new law also provides that if the emergency medical services person, first responder, or any other health care provider believes in good faith that the provider's safety, the safety of the family or immediate bystanders, or the provider's own conscience requires the patient be resuscitated despite the presence of a comfort care only bracelet or necklace, then that provider may attempt to resuscitate that patient, and neither the provider, the ambulance service, nor any other person or entity shall be liable for attempting to resuscitate the patient against the patient's will.¹²

Furthermore, the new law provides for an anonymous tracking system to ensure against abuse and to evaluate the success or failure of the system.¹³

Background and History of HRS Section 321-229.5

The revised version of the bill¹⁴ was supported by testimony from the Executive Office on Aging, the Hawaii Department of Health, and the City and County of Honolulu, the Hawaii Chapter of the American College of Emergency Physicians, and the Hawaii Medical Association. The Hawaii Right to Life chapter did not submit testimony, but participated in drafting the language.¹⁵

What's Happening Nationally

As of June of 1994, 22 states have statutes that authorize non-hospital "Do not resuscitate" orders.¹⁶

What Is Currently Being Done To Help Implement Hawaii's New Law?

The Department of Health Emergency Medical Services Systems branch is developing the protocol for the CCO-DNR order. According to program specialist Jamie Go, the DOH is reviewing bids for suppliers of identifying bracelets and/or necklaces. He expects to send information packets about the CCO-DNR orders to all physicians in February, 1995.

Checklist For Hawaii's New DNR Bracelet or Comfort Care Only Law

1. The new law is not effective until July 1, 1995.
2. The patient must be at least 18 years old.
3. The patient must be diagnosed with a terminal illness.
4. The physician should discuss the situation with the patient and explore the various options, including a living will and comfort care only—do not resuscitate (CCO-DNR) order.
5. If a patient requests a CCO-DNR order, the physician should fill out the form, which should be signed by the physician, the patient, and an adult witness who personally knows the patient.
6. The physician should keep the original, signed CCO-DNR form in the patient's medical records, and give two copies to the patient.
7. The patient should keep one copy of the form for his or her personal records and send the other copy to the designated supplier of the identifying CCO-DNR bracelet or necklace.
8. The bracelet or necklace supplier sends the copy of the CCO-DNR form to the state emergency medical services office for monitoring purposes.
9. The patient wears the CCO-DNR bracelet or necklace, which will be honored by emergency medical services personnel, first responder personnel, and health care providers absent a good faith belief as described in the law.
10. If a patient changes his or her mind and wants to revoke the CCO-DNR order, he or she can remove the bracelet or necklace, or convey their change of mind to the emergency medical services personnel, first responder personnel, or other health care providers.

Acknowledgements

The authors gratefully thank Mr Jamie Go, EMT, of the Department of Health emergency medical services branch. He has cheerfully shared all his information, was instrumental in drafting the bill and helping it get passed, and is currently setting up procedures for the law's effective implementation.

References

1. *Emergency medical services personnel* are mobile intensive care technicians or emergency medical technicians who are certified or licensed in Hawaii. HRS 321-222 (eff 7/1/95).
2. *First responder personnel* are those who have successfully completed a U.S. Department of Transportation-approved first responder course in emergency basic life support; for example, firefighters and lifeguards. HRS 321-222 (eff 7/1/95).
3. *Health care providers* are licensed, certified, or otherwise authorized or permitted by Hawaii law to administer health care in the ordinary course of business or practice of a profession; doctors, nurses, hospice workers, and nursing home personnel. HRS 327D-2.
4. HRS 321-229.5 (a) (1) (A) (eff 7/1/95).
5. HRS 321-229.5 (a) (1) (C) (eff 7/1/95).
6. HRS 321-229.5 (a) (1) (B) (eff 7/1/95).
7. HRS 321-229.5 (a) (2) (eff 7/1/95).
8. HRS 321-229.5(a)(1)(A)(eff 7/1/95).
9. HRS 321-229.5 (a) (1) (B) (eff 7/1/95).
10. HRS 321-229.5 (a) (3) (eff 7/1/95).
11. HRS 321-229.5 (b) (1) (eff. 7/1/95).
12. HRS 321-229.5 (b) (3) (eff. 7/1/95).
13. HRA 321-229.5 (b) (2) (eff. 7/1/95).
14. House Bill No. 2553, originally proposed as an amendment to HRS Chapter 327D, pertaining to medical treatment decisions and the Living Will statutes. The Committee on Health agreed policies would be more appropriate as an amendment to the Emergency Medical Services Statutes under HRS Chapter 321, and the bill was accordingly amended.
15. Senate Standing committee Report No. 2671, 1994 Senate Journal.
16. National map, state statutes governing nonhospital do-not-resuscitate orders. Choice in Dying, Inc, New York, NY: June 1994.



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